

**EPA**

**Moderator: Brittany Martinez**  
**November 21, 2017**  
**3:49 p.m. ET**

Operator: This is conference # 370343325

Operator: Your conference is being recorded.

Paul Achitoff: Hello.

Brittany Martinez: Good afternoon. This is Brittany. I just want to let you know that this phone call is being recorded. May I ask who this is?

Paul Achitoff: This is Paul Achitoff and Kylie Wager.

Brittany Martinez: Hi, Paul and Kylie.

Kylie Wager: Hi.

Brittany Martinez: So, we're waiting for a few folks from our side to join us and, of course, (b) (6)

Good afternoon. This is Brittany. Can I ask who joined us? And just to let you, this call is being recorded.

Desean Garnett: All right. Desean Garnett.

Brittany Martinez: Hi, Desean.

Desean Garnett: Hi.

Mary O'Lone: He's not going to leave ...

Brittany Martinez: OK. Hello, this is Brittany. This call is being recorded. Who has joined us?

(b) (6): Hi, this is (b) (6) from Kauai.

Brittany Martinez: Hi, (b) (6). Thank you for joining us today. My name is Brittany Martinez and I am the Case Manager at EPA's External Civil Rights Compliance Office.

(b) (6): OK.

Brittany Martinez: We're going to go ahead and get -- we're going to go ahead and get started with introductions. So, I think I just heard another beep. Is that Adam?

Adam Wilson: Yes, it is.

Brittany Martinez: OK, thank you. OK, so just before we begin, I would like to do some introductions. This call is being recorded. So, for the recording, I would like for everyone to identify themselves, their role, and if you could spell your name (inaudible). And is there any objection to this interview being recorded?

Adam Wilson: No.

Brittany Martinez: OK, thank you. So, once again, my name is Brittany Martinez and it's spelled B-R-I-T-T-A-N-Y, last name M-A-R-T-I-N-E-Z, and I am the Case Manager on this Title VI complaint.

Jeryl Covington: My name is Jeryl Covington. I am the Technical Support. I spell my name J-E-R-Y-L C-O-V-I-N-G-T-O-N.

Mary O'Lone: Hi, this is Mary O'Lone. I'm an Attorney at the General Counsel's Office at EPA.

Brittany Martinez: OK, Desean?

Desean Garnett: Yes. It's Desean Garnett, D-E-S-E-A-N G-A-R-N-E-T-T, and I work at EPA Region 9, and I'm an Attorney in the Office of Regional Counsel, and my role is to assist the region and the investigation of this complaint.

Brittany Martinez: Thank you. Adam?

Adam Wilson: I'm Adam Wilson. I'm Attorney Adviser from the Office of General Counsel headquarters. That's A-D-A-M W-I-L-S-O-N.

Brittany Martinez: Thank you. And Paul?

Paul Achitoff: Yes, this is Paul Achitoff, A-C-H-I-T-O-F-F, and I'm here with Kylie Wager, W-A-G-E-R=.

Brittany Martinez: Thank you. And (b) (6), if you could just do the same?

(b) (6) This is (b) (6)  
And I'm a retired physician of the Island of Kauai and I was a member of the Joint Fact-Finding Task Force that was commissioned by the state to look at the issues of pesticides and possible health consequences on the Island of Kauai.

Brittany Martinez: OK, thank you. So, I'm going to start off with a brief -- excuse me -- introductory summary of what we're looking at today and then I'll go ahead and get into the questions. But if you have any questions beforehand, you could stop me.

So, these cases originated from a complaint filed on September 14th, 2016 by Earthjustice on behalf of The Moms On a Mission Hui and P??ai Wai Ola/West Kauai Watershed Alliance. The complaint alleged that the Hawaii Department of Agriculture and the Hawaii Agribusiness Development Corporation discriminated against farm workers and residents in West Kauai and in Molokai on the basis of race and/or national origin.

That complaint was accepted by the External Civil Rights Compliance Office on March 9th, 2016. The two allegations that the External Civil Rights Compliance Office agreed to investigate are, whether in administering the

pesticides program and the leasing and licensing of the state land program the Hawaii Department of Agriculture and/or the Agribusiness Development Corporation discriminated on the basis of race and/or national origin being native Hawaiians against farm workers and residents of West Kauai and Molokai, in violation of Title VI of the Civil Rights Act, and EPA's implementing regulation, and whether the Hawaii Department of Agriculture and the Agribusiness Development Corporation is complying with the procedural safeguard provisions in 40 CFR Part 7 Subpart D which require recipients of EPA financial assistance to have specific policies and procedures in place to comply with their non-discrimination obligations.

This interview is convened as part of the External Civil Rights Compliance Office's investigation to discuss the details of this complaint. We would like to inform you at the outset that the External Civil Rights Compliance Office has a general office policy against disclosing the personally identifiable information of complainants and witnesses.

If a request for such information is filed under the Freedom of Information Act, the Freedom of Information Act includes protection against disclosures of information involving matters of personal privacy.

The Freedom of Information Act also includes protection against disclosures of information, including personally identifiable information compiled for law enforcement purposes such as External Civil Rights Compliance Office's investigation.

Please note from everyone on the line, it would be helpful if you would please identify yourself before speaking for the recording.

Before we begin, does anyone have any questions or would like to provide an opening statement? OK. (b) (6) you've already stated your name and spelled it, but for the record, can you, please, provide your telephone number and your preferred email and mailing address?

(b) (6)

Maybe I'll give you a mobile phone number. It's (b) (6). My email is I -- (b) (6)

Brittany Martinez: OK, thank you. And we understand that, as you've mentioned before, you're one of the members of the joint fact-finding project team. Before we discuss your role as a member on that project team, we would like to ask some general questions regarding your background. Can you, please, describe your professional qualifications and background?

(b) (6): So, I'm a retired physician. I've been a primary care physician on Kauai since 1979. I'm a board-certified pediatrician and I also was a health care administrator, so I was the (b) (6) for 15 years and (b) (6) for two and a half years on Kauai.

I testified originally in the 2491 hearings based on the work done by the American Academy of Pediatrics, which was published in 2012 and gained an interest basically on the subject of pesticides and health, starting basically from that time and from this work that had been done by the American Academy of Pediatrics.

And then when I retired, they asked if I would sit as one of the physicians on this Joint Fact-Finding Task Force that was set up basically or commissioned by the Department of Agriculture and the Mayor's Office here in Kauai. So, for 15 months, I served on that committee.

Brittany Martinez: OK, thank you for that information. And I know that you went through kind of the most recent history of where you worked. Where was the last place that you worked? Was that ...

(b) (6): The last place I had a primary care office in Kapaa and my last four years was spent in that primary care office providing basic primary care.

Brittany Martinez: And can you spell the name of that health care facility?

(b) (6): It was called the (b) (6).

Brittany Martinez: OK.

(b) (6): And basically, it was a small private practice that I was in.

Brittany Martinez: OK. And where was this located?

(b) (6): In Kapaa from the Island of Kauai.

Brittany Martinez: OK. And what type of services did you provide while you work there?

(b) (6): I was a primary care physician, I did basic primary care medicine to pediatrics and young adults. And I had a particular interest in wellness, so I did a fair amount of teaching and consultations for wellness essentially.

Brittany Martinez: OK. And at the -- that location, were there other types of health care providers there?

(b) (6): There were other types but they -- we were all in our own private practices. There was the psychiatrists, the psychologists, physical therapy, there was naturopathic physician, but everybody basically have their own -- it was basically most of all small private practices in the building.

Brittany Martinez: OK. And did you work close with the native Hawaiian community that you're aware of?

(b) (6): No, not particularly. I have patients certainly who are in the native Hawaiian community and always have had since I've been here -- since I moved to Kauai in 1979, but I didn't have any particular close affiliation that was different than any other physician on the island.

Brittany Martinez: OK. And I -- you probably already stated it, but how long did you work at that location?

(b) (6): Four years.

Brittany Martinez: OK. And have you re-examined or treated patients with symptoms that you believe are related to exposure to agriculture pesticides or pesticides' risks from agricultural applications?

(b) (6): The answer is probably no. My practice is on the East side of the island, so we were far away from the affected areas.

Brittany Martinez: OK, OK. And so, now, we're just going to transition to questions more specific to the joint fact-finding report.

(b) (6): OK.

Brittany Martinez: Please describe your role as part of the project team.

(b) (6): So, there were two physicians on this task force, and I was one of them. And we were asked to particularly concentrate on the health chapter, so we did. And we -- there were two physicians. So, that chapter, there were two physicians and member of the -- one of the scientists from the seed companies. And then the three of us kind of drove the effort to develop this health chapter.

Brittany Martinez: OK.

Mary O'Lone: Who were the other two? I'm sorry. This is Mary O'Lone.

(b) (6): I'm sorry, I missed that question.

Mary O'Lone: Who were the other two physicians?

(b) (6): (b) (6), he's a physician, he's a retired physician, I think he worked at Harvard University; and (b) (6), who worked for DuPont Pioneer.

Mary O'Lone: This is Mary again.

(b) (6): Yes.

Mary O'Lone: I read at the beginning of the report that (b) (6) resigned on April 8th, 2016 from the committee.

(b) (6): That's correct. So, she wasn't there for about the final couple of weeks basically of the report, but it actually did not change much from the time she left. We were attempting in the last couple of weeks to respond to the multiple -- what happened is we published a preliminary report subject to comments from the public.

And then in the final weeks, we basically took those comments and attempted to respond to and in the report. So, she wasn't there for the final catch-up that had to do with responding to those comments.

Mary O'Lone: Was her resignation because of the timing?

(b) (6): No. She left because she -- there were two seed company representatives on this task force and the third person who had worked closely with the seed company is part of the University of Hawaii.

And during this process, one of them left several months before the end and the other two who actually worked for the seed company -- seed companies left in the final two weeks, so very abruptly, we're actually very surprised.

Mary O'Lone: So, all the seed company reps -- by the time you were wrapping it up, they were -- they had all resigned?

(b) (6): The two of them had, yes.

Mary O'Lone: Two. And her -- is she a rep, is that what you're saying, she was the company rep?

(b) (6): She wasn't a rep. She was -- she worked for the companies. She wasn't -- she theoretically didn't represent them. She represented herself.

Mary O'Lone: OK.

(b) (6): But that was her background.

Mary O'Lone: And is there a reason they resigned? I mean the word resigned kind of popped out at me.

(b) (6): Yes. You know, they gave her reasons and basically being upset with the final process. I don't want to speak for them ...

Mary O'Lone: OK.



(b) (6) : ... essentially. I guess I can say my own supposition was that the -- when the report came out, although many, many people have told us it was a well-balanced report, the -- when the preliminary report came out, the seed companies seemed to be not that happy with it and they -- you know, these people worked for these companies and I don't know -- I can't speak for them. I don't know if they felt pressure or whatever, but they didn't finish the process.

Jeryl Covington: So, (b) (6) this is Jeryl Covington, I have one question.

(b) (6) : Yes.

Jeryl Covington: You indicated that the draft was issued. What comments were received in the draft that did end up in the final report?

(b) (6) : What comments were received that did not end up in it?

Jeryl Covington: Or what comments to the draft, was there a substantial change from the draft to the final report?

(b) (6) : You know, we clarified quite a few things. I mean, for instance, there were comments -- the general way that we did the health chapter was to review the medical literature in terms of looking for associations between pesticides and chronic health conditions or acute health conditions because we wanted to kind of direct our -- what we were looking for.

And so, one of the comments was that we had kind of cherry-picked the studies that we were looking at in terms of finding correlations between illness in pesticide use. So, we made a big effort to point out that we actually didn't use -- we used barely any single study that our conclusions about what conditions were related to pesticide use gained from large meta analysis such as the American Academy of Pediatrics' reports in 2012 and the EPA has a manual that I think in 2012 had for the first time a section on chronic effects of pesticide usage, and we used that -- used the agricultural health study.

So, we've made an effort, for instance, in that chapter to point out that these had all -- all of our conclusions had been taken on these larger studies.

There were comments on not -- that we hadn't effectively pointed out that there were socioeconomic factors that had played a role in the ill health of the West side. So, we made an effort to make sure that this was carefully pointed out that we had shown some of the socioeconomic factors. We didn't -- this wasn't done as a study, so it was an attempt to use the socioeconomic factors to prove a point or not prove a point. We were just reporting on the data as we found it.

So, anyway, we -- many of the comments that we actually responded to were by the seed companies. I think maybe in our original report, we had said that 90 percent of the wheat in America was desiccated with glyphosate and they reported outside, it was more like 30 percent, so we -- you know, we changed that section to respond to their research.

So, there were things like that. Their -- the seed companies were the ones that were -- or their representatives, as I remember, were the ones that had the most comments and we actually spent the most time responding to them.

Brittany Martinez: OK. So, this is Brittany again. Moving on, as you're likely aware, the Hawaii Department of Agriculture issued a press release in May 2016, which included a number of statements where they characterized the findings in the conclusions of the report. I would like to walk through each statement in this and let us know what your thoughts are in that statement, if you're in agreement or if you have any feedback.

(b) (6): OK.

Brittany Martinez: The first statement that was -- the first statement that was -- and just stop me if I'm moving fast -- they stated that the Kauai health data examined does not show a causal relationship between the pesticide use by the seed companies and health problems down on the West side or any other part of Kauai.

(b) (6): Yes. So, we made a big point of saying that causality is a very difficult thing to prove at any point and that correlation does not -- and actually, one of the comments by the seed companies was -- and Sarah all along was very clear

that we -- that causality is a very difficult thing to ever prove and that even if we found correlations, that certainly didn't prove causality.

So, we did spend a fair amount of verbiage in the report making that point that correlations are not causality. And furthermore, the point that we made was, you could never really talk about causality because there was so little environmental study done, meaning we don't know what's in the house dusts and so on or anything about biologic monitor -- biologic markers in any of these people.

So, just because we found quite a bit more developmental delay and attention deficit disorders in these children, without knowing what's in their house dust or knowing what metabolites are in the mother's urines, causality would be very difficult to prove. So, we just made a -- we made that point clearly and, you know, that the Department of Agriculture and others clearly repeated that point.

Brittany Martinez: OK.

Mary O'Lone: This is Mary O'Lone. But what I hear you saying is that basically the health data available, you know, that you examined couldn't show it.

(b) (6): Yes.

Mary O'Lone: As opposed to the statement that there is no causality or you just ...

(b) (6): No. You know, what we showed was that this was -- what we found was that this is an unhealthy committee in general, had things like highest mortality from cancer in the state almost, had certainly much more developmental delay in three-day year olds in the other parts of the island and more developmental delay -- more other developmental disabilities which is mostly ADHD.

But we have -- you know, all of those conditions are certainly multi-factorial, so we had no way -- from what we looked at, we have no way to say what caused that. What we did say is it's in our minds caused (further) to be further researched. We ought to be looking at the house dusts and seeing what are we finding, we should be looking perhaps with the urines of pregnant women.

And I was particularly interested. We only had two years of school data. We wanted to see -- what six years have showed us, but in the report, we only were able to obtain the two years. That data is there. The schools keep it all quite -- in quite a bit of detail.

So, I've been very disappointed actually that our report didn't provoke enough of these studies because I think it is important for us to be looking harder to see -- to, you know, say, "Look, there's health issues here, let's see if we can get to the bottom of them."

Brittany Martinez: OK. The next thing was there is no statistically significant evidence that shows causality between seed companies, pesticide use and any harm to Kauai flora and fauna.

(b) (6) : So, again, that's correct. These populations -- so, for example, we took the elementary schools on the island and lumped them. There are two on the West side, basically Eleele and Kekaha Elementary Schools, and then there are other districts.

And we -- so we compare these districts although we curated the West side district a little bit. In the true West side school district, there's a school called Kalaheo, which is not in the spray zone, so we moved that into the (Tahuwi) district.

And if we did that, we saw, for example, that there was a 70 percent increase in developmental delay on these West side schools. But we're talking about small numbers of children, so there isn't -- the numbers we're dealing with weren't large enough to call them statistically significant. We couldn't basically say this wasn't just due to random chance.

We had -- we didn't have a statistician on our -- in the staff -- in the working staff of the JFF, which was too bad, but we passed all this by a person who is a specialist in statistics in the University of Hawaii.

And the only comment they made is, "Yes, this is correct. The numbers are too small to prove statistical significance, but it doesn't mean it's not

significant. It's just that you don't have -- in the small community, you don't have enough people."

Jeryl Covington: When you say small populations, could you describe that for us for the school side?

(b) (6): Let's see. I can give you some exact numbers if you want.

Jeryl Covington: An estimate would be fine.

(b) (6): Let me just see if I can pull them up there. Just give e a minute. So, for instance, Kekaha School for developmental delay had 14 children, and a school, say, Hanalei, had three and the school Kalaheo had five.

And if we did that as a percentage, the population of that school was 481 children, so this was 4.2 percent of these children showing this developmental delay. And the school like Hanalei had three children with development delay out of a population of 256, and that was 1 percent.

So, you know, we're dealing with numbers that are certainly different, but when they do -- when they put them in the statistical analysis tables that they used, they do not show that it, you know, rises to the 95 percent mark. It suggests that the numbers aren't large enough.

Jeryl Covington: Yes, OK.

Brittany Martinez: OK. And then the next statement which I think we've already been discussing, they state, there needs to be additional data gathering going forward to continue to demonstrate the impact of agricultural pesticide use.

(b) (6): Yes, so that's what I believe. For instance, if we -- my understanding is that we had collected the school data over six years, so we had six points. And it showed the same kind of correlation. You would rise to the level of statistical -- so that you might rise to the level of statistical significance.

But again, it's very important to note, even if you did rise to the level of statistical significance, these are multi-factorial conditions, all of them. And you would need to do other testing to see if pesticides played a role.

So, for instance, in the CHAMACO study and the Columbia study where they've looked at organophosphates, they had urine metabolites or cord blood levels of organophosphates or its metabolites, so they were able to correlate with their decreases in I.Q.

And so, if you really were going for causality, you would need some kind of markers to, you know, continue to point you in that direction. So, again, what we tried to say in the health chapter, this is not a healthy community. It's actually an unhealthy community, but we can't say for sure what's the cause of the ill health unless you're doing a research.

Brittany Martinez: And the next statement was, there is no conclusive evidence that the seed companies are misusing pesticides or, in quotations, "drenching" West side communities with pesticides.

(b) (6) : So that's -- you know, again, we're stuck with the same issue, but there were issues of things that jumped out of this that were concerning. For instance, there was the Waimea School incidences with multiple episodes of the children becoming ill.

So, in -- and we went out to look at the school and what interested us is they were spraying aggressively things like chlorpyrifos 60 feet from an open bank of windows on a regular basis. And even though currently, 60 feet would still be legal I think, I believe with the chlorpyrifos, that's really close, the one that these large trucks should be spraying to an open school, for example.

So, there were things that -- now, that's no longer the case because apparently the teachers union took a seed company to court and the court said, "You need to do something about this," and what they did is they moved a field away in 2008, and that's interesting because all those incidences stopped as soon as that happened.

But even several years later, they did air study sampling in that school and they still found chlorpyrifos, which I believe is against the label because you're not -- it's not supposed to drift off wherever you apply it. So, I believe that there is -- you know, there could be cause for our concern.

The other thing that I -- you know, was of interest to us was DuPont-Pioneer lost their lawsuit in terms of best farming practices. And a piece of the concern was this dust flying everywhere and it is known that pesticides travel with dusts.

But again, there was virtually no studying of house dusts done, so we don't know if that was part of the problem. But the lawsuit was basically based on farming practices and not on health consequences.

So, anyway, you know, we saw things that were worrisome, that could be worrisome, but again, all we could say was there need to be further studies and what we are hoping was that they would do aggressive house dust sampling.

Jeryl Covington: I don't know if you have any response to this one, but when the suit occurred with the schools, do you know if the schools had actually collected any interior dust samples or wipe samples to analyze, to see if there was any residuals or if they did any sweeping of the (ACAC) systems to test for residue?

(b) (6): You know, I wasn't on that section of the report. I'm not sure of the answer to that. If they did, it was extremely limited because I don't remember seeing much mention of it whether there were one or two swipes that may have been possible and they -- I know they did some testing several years later after they had changed, and that's where they have the air drift that was positive. And they also found chlorpyrifos in the water, I believe, and also in the drinking water at a very low level. But I don't -- specifically about the (swipe), I don't remember.

Jeryl Covington: OK.

Brittany Martinez: OK. And then the last statement made was the claims of direct and obvious negative impacts from genetically modified crops and pesticides made in testimony in support of Bill 2491 and on social media were not been substantiated.

(b) (6) : Well, let's see. So, just taking -- there were things said such as 18 tons of pesticides sprayed and we did find over a 20-month period there were 18 tons, so I think that was kind of substantiated .

There was quite a bit of talk about it, cancer clusters, and we didn't do any research on that, but we -- the report that came out during that time was that there was no cancer cluster. Although we did know with interest that their death or overall mortality from cancer is one of the highest in the state, but overall mortality from cancer is not specifically a category that's associated with pesticide usage. In other words, pesticide usage has been associated with certain cancers but not as I know overall cancer mortality.

I -- we certainly found that it's an unhealthy community and that was one of the complaints in 2491, was this is a community that's having all kinds of health problems. For instance, the rate of pneumonia admission in the elderly is among the highest in the state, but overall mortality was -- cancer mortality was highest -- among the highest in the state, very high incidents of diabetes and obesity and there were some conversations about these pesticides having endocrine dysfunction capabilities and dysregulation capabilities.

But again, things like diabetes and obesity have certainly multi-factorial. So, yes, we found an unhealthy community, yes, we found conditions that are associated with pesticides that were elevated in that community, and no, we could not prove that -- I agree that we could not prove that pesticides necessarily caused all of these problems or any of them.

Brittany Martinez: Next, we're going to go into some of the recommendations that came out of the report and there were recommendations made to the Department of Agriculture. And so, what we're trying to find out here, if you're aware of the implementation of any of these recommendations.

(b) (6) : OK.

Brittany Martinez: Some is similar to the previous question. I'm going to go line by line.

(b) (6) : OK.



Brittany Martinez: So, the first one is, expand the pesticide advisory committee and broaden admissions, establish a new state standard for pronicity to account for low level continuous exposures.

(b) (6) : I've heard that they were working on that. I haven't seen anything concrete, so I heard it through (b) (6), who was the person that put this Joint-Fact Finding Task Force together. And he heard it from Scott Enright, but I actually -- that's all I know, is that there are some work on trying to expand that committee yet. It hasn't happened to my knowledge.

Brittany Martinez: OK. And then the next two are related to the committee, so one is undertake a major update of Hawaii pesticide laws and regulations.

(b) (6) : Yes, nothing has been done to that effect that I know of.

Brittany Martinez: OK. And then the next one is revise and expand the Good Neighbor Program and establish a consistent buffer zone policy and use green screens.

(b) (6) : Yes, nothing formally has been done in terms of that. It's interesting to me. On the island of Kauai, there has been a moving back from the communities of the fields. And I can't -- I don't know if that's because of its consolidation in these companies or for any other reason.

So, although the regulations haven't changed in any way that I know of, there has been some drawing back from the communities up here just by driving around. I don't think that's the case on Molokai.

Brittany Martinez: OK. So moving along to the other recommendations, the first, initiate a drift monitoring pilot program.

(b) (6) : Nothing, nothing is done. I know that they -- at the Department of Health, they got some kind of opinion about that. And the opinion was that just monitoring wouldn't be that effective. I wonder -- I'm not sure if there is (any less to take), but they kind of suggested against it.

Brittany Martinez: OK. And I just want to move back to what you mentioned before about the moving back in the fields. Do you recall when you notice that?

(b) (6) : I took a drive around four months ago. And I noticed that the -- so the field above the town of Waimea was a field that had generated a lawsuit basically because that field -- the prevailing winds came from that field to the town of Waimea, and the dust from that field was an impressive problem for Waimea residents.

And four months ago, anyway, that field above wasn't planted. And I -- it may have to do with the fact that DuPont Pioneer and Dow are working together, and they may have just consolidated some of those fields. I'm not sure what drove them to change that field.

Brittany Martinez: OK. Then I'll continue. The next one is establish a rapid response protocol for possible incidents.

(b) (6) : I -- the Department of Health has done something with that. I don't know how much. What we were -- what we noticed was that there was such a paucity of sampling done when they have this 2008 incident and many others. You know, the kids' urines could have been collected, and they could have been aggressively doing swabbing. And we noticed that didn't happen.

I know the Department of Health had a few conferences on the subject. What I don't know is whether there any kind of concrete protocols in place at this point should there be another incident.

And one of the issues is once the joint fact-finding task force put its report out, we were effectively dissolved. We don't have a function anymore, so there isn't any methodology for us to formally understand what's happened or not happened.

Brittany Martinez: Was that ever discussed as part of role of the committee that there would be some follow-up or some monitoring minor trained on the recommendation?

(b) (6) : We discussed it as something that should happen, but it -- if nothing, it wasn't set up that way, it was set up just to make a report, and there was no follow up of that.

Mary O'Lone: This is Mary O'Lone. I wanted to ask you a question, sir, back related to the rapid response thing. I look at the report. It mentioned of the seed company's track data. They tracked where the spring is occurring, the amount and concentrations that are in use and how often it sprayed. And they are only required to report the information to first responders, medical staff and other law enforcement officers for emergency response purposes.

In the medical staff sort of bailiwick, were they, you know, notified -- who would they be notifying? Do you know? Will you ever know? I guess, as a, you know, medical provider, were you ever notified by the seed company?

(b) (6): Notified of what specifically?

Mary O'Lone: I don't know. The report -- well, the report says on Page 21 that they track it and that they have to -- they're required to report that information about where the spring is the occurring, the amount and concentration supplied and how often it sprays.

(b) (6): Right.

Mary O'Lone: And then it says like Kauai seed companies are only required to report such information to first responders, medical staff and law enforcement officers for emergency purposes. So I'm just wondering...

(b) (6): Yes.

Mary O'Lone: ...at what -- you know, who do they mean and do you know who they mean or did the seed company ever report any of it to you when you were a medical provider.

(b) (6): No, but I never asked for it. So the seed companies, during our collection of data, we visited the seed companies and they showed us the reports that they create, and they're amazing detailed. They know exactly where they sprayed, what. And we were impressed with that, and we felt like that information should be something that somebody could research.

I know, in California, some of the research they have been able to do has been based on this, you know, kind of detail that they can get out of their reporting that's necessary in California. And when we tried to figure out what was being sprayed per acre and so on, it was very difficult because that detail is not available to us and wasn't available on the Good Neighbor policy, which just gave general amounts.

We have been told by the seed company that if an emergency room physician, for example, called and said what was sprayed here, that they would be able to get an answer to that question. But I never -- that wasn't something that I ever tried to do -- again, my practice from the other side of the island.

Mary O'Lone: OK. Did you ever practice on the west side?

(b) (6): No, I, for years, was a physician in the main clinic on the island, which is in (Mahui), so for many years I saw a fair number of west side patients. But I became the medical group CEO in 1990 and saw less patients after that amount so that the bulk of the patients that I've seen in the west side was prior to 1990, and this wasn't an issue at all at that time.

Mary O'Lone: OK.

Brittany Martinez: All right. So going back to the recommendations, the next was pesticide inspectors and reduce delays.

(b) (6): And so my understanding on that is that they have open positions for more inspectors, but I don't think they've built those positions. And I had heard that there was a backlog originally of 750 cases. And I've -- my understanding is that backlog has been brought down -- I don't know, brought down to what, but I've heard it's better.

Brittany Martinez: OK. The next, enforce existing labor laws.

(b) (6): All I've heard about that is Peter Adler reported to us that their response to that was, "We're already doing that."

Brittany Martinez: Establish an (actuary) monitoring program and require mandatory medical checks.

(b) (6) : Neither one of those has been done. On the medical checks, what we are interested in was people who have mandatory checks are the ones that drive these big breaks that distribute the pesticide, but the bigwigs are actually very well-protected. And we said the people at risk are the farm workers, which was kind of borne out by that Syngenta case where they walked into the field too early, so we said these are the ones that you ought to be monitoring more closely, but nothing has been done with that as far as I know.

Brittany Martinez: Initiate user fee on pesticide sales?

(b) (6) : They did increase one of the fees that they collect. I'm not sure if it's on sales or registration, but they did apparently increase one of them.

Brittany Martinez: And improved Department of Agriculture's geographic systems?

(b) (6) : No, no change in that as far as I know.

Brittany Martinez: OK. So, the Department of Agriculture has identified a number of recommendations that they stated that they are already implementing. And I'll go through those one by one and then let me know if you agree or if you have any information.

So the first one, proceeded with the review and updating why pesticide laws and regulations including increasing the registration fees for restricted use pesticides.

(b) (6) : So, that's what I was referring to. I knew they had done some fee, and I guess it is registration fee. So that's two. I really have no idea what they have done about the regulations or what they have done to them.

Brittany Martinez: OK. Expanding the Good Neighbor program statewide?

(b) (6) : My understanding is the reporting is now statewide. It's still not mandatory, not audited and difficult to interpret. But I -- as I understand it, it's gone

statewide. I am sure we haven't looked at that website to prove that to myself, but I've heard that it is.

Paul Achitoff: I've heard it for months and have seen no evidence of it. This is Paul.

(b) (6): OK.

Brittany Martinez: Hey, Paul. OK.

(b) (6): OK. As I said I haven't looked. I've heard that that's what had happened, but I haven't like taken a look.

Brittany Martinez: OK. In the next one we've already discussed, but coordinating rapid response protocols for pesticide exposure incident, and they were working with the Department of Health and the Department of Land and Natural Resources ...

(b) (6): So I know that was an interested with Department of Health, and I've heard there was some kind of session on the west side. I don't know how -- I heard it wasn't very well attended, and I haven't heard that there is a formal protocol in place, which we are looking for.

Brittany Martinez: OK. And then the last thing, on developing protocols for the implementation for both surface water and air monitoring study.

(b) (6): So as I understand it, the \$500,000 was earmarked for water studies on Oahu and Kauai. And that's all I know about that. I haven't seen any results. I've heard that the funds were earmarked. I don't know what steps were taken.

Brittany Martinez: By whom?

(b) (6): The Department of Health, I think, coordinated that through whatever federal agency does surface water monitoring.

Brittany Martinez: OK. The next question have to deal with the Good Neighbor program. And I'll go through one by one, but we want to know what you think about the effectiveness of the Good Neighbor program, which parts you think are good and which parts you think that may be deficient.

So the first, just outline the Good Neighbor outreach program generally request that farm operators on Kauai with established work with -- working relationships with individual neighbors to address their concerns about restrict the use of pesticide application and would be able to respond to their question. Do you know anything about that specific?

(b) (6) : No, I don't.

Brittany Martinez: OK.

(b) (6) : I have heard people complain. One of the complaints has been that they were publicizing when spring was happening, but often it didn't happen. They know the weather would change or whatever. The spring notice occasion apparently wasn't very user-friendly or even accurate.

And I know from our perspective this kind of global reporting with the spring isn't what you could use to try to create -- if you wanted to create a map say in developmental delay, and the state of California, anyone to correlate it with pesticide spraying of synthetic pesticides in California you could do that readily. Here, you can't because we know, for instance, on Kauai that Dow/DuPont spray chlorpyrifos this many pounds over this time period, but we don't know where they sprayed it -- their holdings. And we don't even really know what -- how much per acre we had to create an educated guess on that side looking at the acres that they were killing and the amount that they sprayed and, you know, trying to make a supposition from that. So that is certainly not detailed enough.

And as I said before, it should be audited and that should be mandatory. It should be very similar to California's, Pennsylvania's.

Brittany Martinez: You indicated that it wasn't very reliable. How worthy certifications provided?

(b) (6) : You know, I don't know the answer to that, but this was comments from -- we interviewed lots and lots of people when we did our JFFS. And they reported that they were getting notifications very, very frequently, but often there are

no spraying on those days, and that they didn't find the notification very helpful.

I apologize, but I don't know. I should remember how they stated they were actually being told.

Brittany Martinez: And so the next one, it provides voluntary restricted use of pesticide notice, which we just discussed. But the second part is notification of pesticide use, impose application reporting of this use.

(b) (6) : Yes, I mean, that's what we just talked about that We wanted much more detailed post-application of. They have the data. It wouldn't be -- they have the data in tremendous detail. It wouldn't be anything basically to allow us to know -- to allow that to be pointed to some body of literature that somebody could research if they were needed to know the data both for an acute poisoning and for any kind of follow-up of looking for effects by geographic mapping.

Brittany Martinez: OK. So next, voluntary established buffer zones of a minimum of 100 feet as measured from the outside perimeter of the proposed treated area up to the property lines of nearby schools, medical facilities and residential properties.

(b) (6) : So, I don't know what they formerly did with that. As I mentioned, on the island of Kauai that I informally drove around. It looked to me that there had been a drawing back from residential areas, but this is a very informal look.

I have suddenly this big issue of being above when their town seemed to be addressed, and they did seem to no longer be close to the school or the hospital areas, which they had been close to prior to 2008. I did recently see a map of Molokai, and I noticed that they still are quite close to residential and school areas, but on Kauai that seems to be better.

I've been curious if that was partially in response to the fact that we ask for environmental testing, meaning house stuff. And since now, my guess is anyway that, you know, the health stuff might be the best positive on the fact that they're not as close to the houses as they were.



Brittany Martinez: OK. And then the last one we've already discussed was to ensure all other requirements done on the pesticide label must be followed. So overall, do you have any thoughts that we haven't discussed already about your -- how you feel about the Good Neighbor program as it's currently being used or implemented?

(b) (6) : No, I mean, I think the glaring deficiencies that it's not mandatory, not audited and not in enough detail, and the notifications could be better according to the complaints by the people.

Brittany Martinez: OK. Were there any issues that you believe were not covered in the joint fact-finding report? I know you were -- your section was the health section, but was there anything that you felt was lacking?

(b) (6) : We never -- I -- we never got an answer to this birth defects question, but pediatricians on the island were -- on the west side -- this is for a firm we convinced that they have this cluster of severe cardiac cases. And by the time the report came out, that had not been resolved.

I know that after the report came out the Department of Health met with these west side physicians, and I have no idea what came of that. If they correct, there have been 11 of these severe congenital heart malformations over the five-year period that they were talking about. That would have been a kind of remarkable site. And they -- when they talked to me, they would go over and over the fact that they were real.

Because latest was set-up, I could never collect any details myself because of HIPAA issues for all I could do with that even on another pediatrician because I'm not involved with these. All I could do with that is refer them to talk to the Department of Health to try to update that report. And I don't know what happened, never heard all.

Brittany Martinez: OK. And we read in the report that there were several group members that were individually exploring the possibility of raising fund to do additional research. Are you aware of any -- if that's happening or there's any additional review or research that's expected in future?

(b) (6): That is -- there is a proposal being put together by one of the universities in California to do environmental testing, and that hasn't been finalized or formalized yet, but I know it's being worked on.

Mary O'Lone: (b) (6) following up on that, at the end of the -- one of the attachments, there are additional recommendation. And I was just curious as to why those weren't included in the main body of the report. I don't know if I didn't read anything that sort of explained it to me, but I might have missed that.

(b) (6): I'm sorry. Where did you find those?

Mary O'Lone: At the end of Appendix 2, I think.

(b) (6): Oh.

Mary O'Lone: One or two. One, I don't know (inaudible). At the very -- at the very end, Page 268, Attachment Number ...

(b) (6): I was...

Mary O'Lone: (Inaudible).

(b) (6): You know, I can't -- it take me awhile to get there right now. I have to go back into the website and look forward. But what happened in the process is they were -- most of the chapters were longer, much longer than they ended up in the final process in the final report.

Mary O'Lone: Yes.

(b) (6): So we did have things that we thought were important, but not important enough to make that report even longer because it's quite like a long report. So some of the stuff went into appendixes, other data that were collected, other conclusions. And I'm going to guess that that's fell into that. Do you have it in front of you? Could you quickly read some of them to me?

Mary O'Lone: Yes, there's -- OK, (b) (6) it says commonly -- I'll focus on that. Let me just see which ones are health-related, special needs children. The Department of Education, in cooperation with the Department of Health should conduct more

detailed monitoring especially if the kids that -- to provide greater confidence that pesticide exposures are not a primary contributing cause of developmental problems.

(b) (6): You know, that's interesting. I -- that was something that I was particularly interested in. And I noticed with interest when this finally was published that it wasn't in the final iteration, so I -- that interested me. I never quite realized where that went to.

And by the time we were done at the end, they just wanted to get the support that we promised to get it out, and we didn't want to stand in the way of it. But that answer is a puzzle to me is what happened to that one because...

Mary O'Lone: Oh, that (b) (6) Privacy

Female: Yes.

(b) (6): I'll never go and look at that. But I felt that was a very important one. It's so easy to do because they have the data, and I don't it's crazy not to do it. I think it definitely should be done. It would be very easy to compile...

Mary O'Lone: Yes.

(b) (6): ...have it going forward certainly and for us to go back for a total of five or six years.

Mary O'Lone: The next one, too, sounds like -- well, it says, it's just physician organization. So in consultation with the Department of Health (for that) and/or EPA, physicians should work together to develop and implement a continuing medical education program stream for doctors and nurses to better ensure the current diagnostic information and protocols for both acute, sub-chronic and chronic pesticide exposures.

Health professionals on Kauai and elsewhere on Hawaii should be provided further training so and so forth.

(b) (6): So again, I think that one...

Mary O'Lone: And then the last one is a standardized suspected pesticide exposure reporting form for medical practitioners to report possible exposures.

(b) (6): Yes. So these are all proposals that were brought up in the group. And consensus building was always an issue in this because people came from different kind of backgrounds of thought.

And so the final report until the day the final (Tuesday) people left was developed by consensus the best of our ability, including the recommendations. And I don't know -- I'm not quite sure what happened with these. I don't know if we had more trouble developing consensus on them or for one reason or another they just end up in the back.

But the three that you read there certainly seem like very common sense recommendations, and I remembered thinking that they were good recommendations at the time they were written. But I don't know what happened in the final week there that get them back there where they -- back in the appendix.

Mary O'Lone: OK. Thank you.

Brittany Martinez: OK. And our remaining questions really centered around your work as a physician, treating patients that may have been affected by pesticide drift or there was a pesticide incident, but you've already answered that you didn't really experienced it in doing your work.

And we also have questions about whether you yourself had ever been -- have ever seen pesticides or pesticide, have been affected by pesticide drift at your home. I'm not sure, do you live on the east side as well? That's where you work.

(b) (6): Yes, I also live on the east side.

Brittany Martinez: OK. Have -- and you've never experienced that in your home or the neighbor...

(b) (6) : No, no. I have to say since the American Academy of Pediatrics report came out in 2012, I've been much more conscious of use of pesticides in my yard, and in my food, and then spraying the house. It's kind of a wakeup call for pediatricians that report.

It was interesting to me in my last year of practice I had two patients now that I think about it who might have had pesticide exposure on a home basis. And I was struck by how we are not very good at working this up. One was a four-month old who came in my office hyperventilating, barely breathing, ended up being intubated and transferred to Kapi'olani Children's Hospital. And we found out next day the mother reported that the grandfather had bombed the house six or seven times in the previous 24 hours with some kind of home fumigant. And then the baby began to breathe slower and slower and slower.

And I was struck -- so I reported this to Kapi'olani Children's where the child was being taken care of. And I was struck by the fact that everybody was puzzled about exactly how to work this up. They talked to Poison Control about the ingredients, but they -- you know, we have very few tools at our disposal in a way that's easy to get at them to tell us what's happened other than cholinesterase levels and infect blood cells.

Anyway, another child has had a progressive neurologic deficits whose father was some kind of landscape person, and he had a shed full of pesticides and other chemicals that the child had been playing near. And again, we found this out the next day. We reported it to Children's Hospital where this child had also been transferred, and again I was struck by the fact that everybody was kind of puzzled about exactly how to work up that potential cause of this child's strange illness.

Mary O'Lone: (Inaudible).

(b) (6) : So anyway, I'm...

Brittany Martinez: Where's Children's Hospital located?

(b) (6) : Excuse me? It's on Oahu, Honolulu. It's Kapi'olani Children's Hospital.

Brittany Martinez: OK. So, OK, it is an island.

(b) (6): And I noticed that in the American Academy of Pediatrics report, they mentioned that we need more biologic monitor -- more of biologic measures essentially for pesticide exposures.

Brittany Martinez: OK.

(b) (6): So anyway, that's just an aside. So in my practice, I did in the final year have two patients who we wondered, but not from agricultural spraying but from home use, and we were never able to prove that that was a piece of the puzzle.

Brittany Martinez: OK. (Inaudible) want to...

Mary O'Lone: Yes. This is Mary O'Lone. I have one last question. I watched your -- the testimony that she gave during the hearing, and you mentioned that you gave this expression that it wasn't one of the other members' personal statements. It's blue shirts and red shirts. And I was just wondering what exactly that meant because they kept the -- because it appeared more than once.

(b) (6): All right. So what was interesting was in this 2491 debate that the island had, which was a motion for a statute, I guess, or a proposal for a bill, the -- or it was a bill that was being proposed, the people who worked for the seed companies showed up in blue shirts. And the people who are -- for this legislation, which called for buffer zones and right to know better reporting, they wore red shirts.

So when people like me spoke to the audience, basically the audience either -- many, many of the audience either had red or blue shirt. And so I was just commenting that I was actually talking to both sides, not just one.

Mary O'Lone: Thanks. That was what the personal -- one of the personal statements in the appendix also talked about speaking to those blue shirts and red shirts.

(b) (6): Right, right.

Mary O'Lone: Thanks.

(b) (6) : I mean, what we were trying to say is -- so, yes, of interest, what happened here and I guess in many farming communities, the people who were testifying against the buffer zones and the right to know were people that works for the seed companies who basically live in the area of concern. And so what I was saying is, you know, here's the American Academy of Pediatrics saying that there's an increasing concern about low level exposures. That's not just an issue for activists who are environmental activists who may or may not live in your communities. It's also for you people to live in these communities. This is potentially a real issue. And it doesn't mean we're trying to end the seed companies.

Being here on Kauai, it means that we want to monitor what's happening. Monitor, meaning environmental monitoring and be concerned with the fact that there could be exposures that are dangerous to you.

Female: Right.

Female: Yes.

Female: Right.

Brittany Martinez: You know, thank you so much for taking the time for us to interview you today. Was there anything that we didn't ask that you would like to bring up to us?

(b) (6) : You know, I don't know how this process works. Your law says this was the first that I knew about it basic on us being asked to testify here. I believe anyway, there has been lawsuits swirling around, so I get them a little confused.

Brittany Martinez: And just to clarify, it's actually not a lawsuit, it's administrative complaint filed with EPA ...

(b) (6) : Oh, OK. All right. Then I think this one is the first that I heard of that. Anyway, it's something -- and I don't know, of course, where this goes or what comes out of it, but it is a tremendous disservice, I think, that the environmental testing is not being done and that the school -- at least the

school data isn't being collected aggressively and plotted. And I would think if recommendations came out of there, they should include this environmental testing at least for house dust, which is I might -- I think it's easier to correlate in drift monitoring and other things.

And the school data is so easy to collect. I think there should be a mandate for that school data to be collected, compiled and further research done if it continues to be as, you know, use the word "alarming," but it's certainly dramatic the differences.

I also can send that broad data. I have it and it's publicly -- you know, they knew when we receive it from the Department of Education that it was going to be publicly disseminated, so I'm happy to send the graphs or the raw data if anybody wants to see it.

Brittany Martinez: The graphs would be good.

(b) (6): OK. If somebody could use that email that I sent you and -- or maybe Paul can -- somebody tell me where (inaudible) to or, anyway, I'd be happy to send it.

Brittany Martinez: Yes, this is Brittany. I'll email you, and then you'll have my information.

(b) (6): OK.

Brittany Martinez: OK. OK. Desean or Adam, anything else?

Desean Garnett: No, I didn't have anything.

Adam Wilson: No...

Brittany Martinez: OK.

Adam Wilson: ...thank you for your time.

Female: Thank you.

(b) (6): OK, thank you.



Paul Achitoff: This is Paul Achitoff. I just wanted to...

(b) (6): Yes.

Paul Achitoff: ...make this one quick comment. With respect to just one element of what (b) (6) discussed today, and I know that he mentioned that, in his observation, the fields appear to be moving back from, I believe, he said Waimea. Correct me I I'm mistaken.

And, well, I don't doubt that visual evidence and have no reason to question that over some period of time recently fields have been -- that are closer to the town have not been planted. I just want to point out two things. One is that there's been a lot of changes in ownership in that area over the last couple of years with acreage being taken out of production, putting back into production at a later date. And so I -- it's very difficult to draw any conclusion about the state of affairs at any given point in time.

And thus, the second thing is just yesterday I received an email from somebody in the community who said, quote , "Pioneer is ramping and so is Dow. Dow fields above the homes in Pakala, which is adjacent to Waimea, literally above. There are zero buffer zones. So, you know, I don't live on Kauai. I'm not in a position to verify what's going on on any kind of ongoing basis. But I would just caution against making the assumption that the question of proximity has somehow been resolved.

(b) (6): Yes. And actually I can just clarify that, too, because I was kind of commenting just this informal drive I took around. The one thing we did notice was that the fields were quite close to Pakala's, the whole community of Pakala, and that's really interesting because that community, I think, both houses are owned by (b) (6) Privacy family in some fashion, and they are the ones that lease the lands to the seed company, so they're one of the major land owners who lease, and that the people were driving around would kind of laughed and said that community is not going to complain because they don't know because the whole community is owned by the (b) (6) Privacy I don't know how true that is.

And the other concern that fishermen have people involved and the ocean have said is that the Dow spring seems to be all along the cliff line so the run-off -- a lot of the run-off is directly into the ocean and reef area. So although they may have moved away from some of the housing not probably Pakalas, there is certainly a lot of activity right along the area that fronts the ocean.

Brittany Martinez: OK. Was there anything else, Paul or Kylie? OK.

Paul Achitoff: No, thank you.

Brittany Martinez: Paul, thank you again for your time.

(b) (6): OK, thank you.

Brittany Martinez: Right. Take care.

Male: Bye-bye.

(b) (6): OK, bye.

Brittany Martinez: Bye.

END